

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JONATHAN B. McCORD,

Petitioner,

v.

ROBERT HUMPHREYS,
RANDY GASSER,
DIVISION OF COMMUNITY CORRECTIONS
and DEPARTMENT OF CORRECTIONS,

Respondents.

ORDER

11-cv-180-bbc

Petitioner Jonathan McCord, a prisoner at the Kettle Moraine Correctional Institution in Plymouth, Wisconsin, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed in forma pauperis. Petitioner has supported his request with a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed in forma pauperis, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less

than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay at least a portion of the filing fee. According to the trust account statement, in the past six months petitioner's monthly deposits have averaged \$16.50. Twenty percent of this figure is \$3.30. Accordingly, I will grant petitioner's application for leave to proceed in forma pauperis on the condition that he prepay \$3.30.

ORDER

IT IS ORDERED that the request of Jonathan McCord, for leave to proceed in forma pauperis is GRANTED on the condition that he prepay the amount of \$3.30. Petitioner has until April 5, 2011 to pay this amount. If he fails to submit the partial filing fee by April 5, 2011, his petition may be dismissed for failure to prosecute it.

Entered this 15th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge